

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities:

Regarding the specification, it appears that the “*fourth means*” and “*fifth means*” of page 5, lines 16-24 are reversed in comparison with the “*fourth means*” and “*fifth means*” of page 8, lines 17-34.

Appropriate correction is required.

### ***Claim Objections***

2. Claim 5 is objected to because of the following informalities:

Regarding claim 5, it appears that the “*fourth means*” and “*fifth means*” are reversed in reference to the specification and drawing (specification – page 8, lines 17-34; Fig 2, features 4 & 5).

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 4-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 4, the preamble recites a method for controlling the speed and distance; however, there appears to be no “step” in the body of the claim. Applicant is suggested to reconstruct the claimed language to represent the “steps” to perform the function as required for the method claim (see US Patent 6,604,042 for example).

Regarding claim 5, the third means, fourth means, fifth means, sixth means, and seven means are means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to disclose the corresponding structure, material, or acts for the claimed function. The specification fails to set forth the structure that corresponds to the claimed function. The Applicant defines, in the specification, the means based on what functions it performs and fails to define any specifics with regard to the means. “If the specification is not clear as to the structure that the patentee intends to correspond to the claimed function, then the patentee has not paid the price for use of the convenience of broad claiming afforded by 112, sixth paragraph but is rather attempting to claim in functional terms unbounded by any reference to structure in the specification. If one employs means-plus-function language in a claim, one must set forth in the specification an adequate disclosure showing what is meant by that language. If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and distinctly claim the invention as required by the second paragraph of section 112.” Biomedino, LLC v Waters Technologies Corporation (Fed Cir, 2006-1350, 6/18/2007).

Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it expressly recites what structure, material, or acts perform the claimed function without introducing any new matter (35 U.S.C. 132(a)).

If applicant is of the opinion that the written description of the specification already implicitly or inherently discloses the corresponding structure, material, or acts so that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function, applicant is required to clarify the record by either:

(a) Amending the written description of the specification such that it expressly recites the corresponding structure, material, or acts for performing the claimed function and clearly links or associates the structure, material, or acts to the claimed function, without introducing any new matter (35 U.S.C. 132(a)); or

(b) Stating on the record what the corresponding structure, material, or acts, which are implicitly or inherently set forth in the written description of the specification, perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

Other claims are also rejected based on their dependency of the defected parent claims.

### *Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
7. Claim 4, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Constancis et al (IDS reference FR 2755650 in which translation was done by the Examiner) in view of Inoue (2004/0195022).

Regarding claim 4, Constancis et al disclose a method of speed limitation with distance control for a motor vehicle comprising: activation of the method (Abstract; page 2, paragraphs 2 & 13); choice of a speed preset (page 2, paragraphs 2 & 13); verification of absence of a slower target vehicle in the same traffic lane, and if so: limitation of engine torque by action of a driver on an acceleration pedal as long as the vehicle speed is below the preset speed and by automatic control when the preset speed is reached or exceeded, with possibility of deactivation of the method (Abstract; Fig 1; pages 2-3). Constancis et al do not explicitly disclose the steps of verification of presence of a slower target vehicle in front of the equipped vehicle in the same traffic lane, and if so: automatic reduction of speed and maintaining of a constant following time between the two vehicles, which can be adjusted by the driver; reduction, permitted to the driver, of the speed determined by the method, by lifting the driver's foot on the accelerator pedal or pressing the brake without deactivating the method of speed limitation; verification of the speed

of the target vehicle, and in case of increase beyond the preset speed, possibility of acceleration for the driver of the equipped vehicle up to the speed preset or distance preset if the target vehicle is caught up with again. Inoue teaches in the same field of endeavor in Fig 2-5, 8 such steps of verification of presence of a slower target vehicle in front of the equipped vehicle in the same traffic lane, and if so: automatic reduction of speed and maintaining of a constant following time between the two vehicles, which can be adjusted by the driver (Fig 2 "S02-S04"; [0084]-[0088]; [0098]-[0134]); reduction, permitted to the driver, of the speed determined by the method, by lifting the driver's foot on the accelerator pedal or pressing the brake without deactivating the method of speed limitation (Abstract; Fig 2 "S05, S06"; Fig 5, 8; [0088]-[0091]); verification of the speed of the target vehicle, and in case of increase beyond the preset speed, possibility of acceleration for the driver of the equipped vehicle up to the speed preset or distance preset if the target vehicle is caught up with again ([0098]-[0134]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate such steps of verification of presence of a slower target vehicle in front of the equipped vehicle in the same traffic lane, and if so: automatic reduction of speed and maintaining of a constant following time between the two vehicles, which can be adjusted by the driver; reduction, permitted to the driver, of the speed determined by the method, by lifting the driver's foot on the accelerator pedal or pressing the brake without deactivating the method of speed limitation; verification of the speed of the target vehicle, and in case of increase beyond the preset speed, possibility of acceleration for the driver of the equipped vehicle up to the speed preset or distance preset if the target vehicle is caught up with again as taught by Inoue in the method of Constancis et al because it does no more than yield predictable results of controlling vehicle speed and distance

based on the inter-vehicle information since it has been held that the combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results (MPEP 2143).

8. While patent drawings are not drawn to scale, relationships clearly shown in the drawings of a reference patent cannot be disregarded in determining the patentability of claims. See In re Mraz, 59 CCPA 866, 455 F.2d 1069, 173 USPQ 25 (1972).

#### *Allowable Subject Matter*

9. Claims 5-6 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

#### *Conclusion*

10. The cited prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuong P. Nguyen whose telephone number is 571-272-3445. The examiner can normally be reached on M-F, 8:00 - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chuong P Nguyen/  
Examiner, Art Unit 3663